

Law Offices

# HOLLAND & KNIGHT LLP

2100 Pennsylvania Avenue, N.W.  
Suite 400  
Washington, D.C. 20037-3202

202-955-3000  
FAX 202-955-5564  
www.hklaw.com

# ORIGINAL

Atlanta	New York
Boca Raton	Northern Virginia
Boston	Orlando
Fort Lauderdale	Providence
Jacksonville	San Francisco
Lakeland	St. Petersburg
Melbourne	Tallahassee
Mexico City	Tampa
Miami	West Palm Beach

OCT 04 1999

RECEIVED  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

October 4, 1999

**EDWARD W. HUMMERS, JR.**  
202-457-7145

Internet Address:  
ehummers@hklaw.com

**VIA HAND DELIVERY**

Magalie Roman Salas, Esquire  
Secretary  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Re: *Ex Parte* Presentation  
ET Docket No. 99-267  
Lookout Mountain Antenna Farm Proceeding

Dear Secretary Salas:

By letter of September 16, 1998, the Video Services Division advised that the Lookout Mountain proceeding has been redesignated "permit but disclose" for purposes of the Commission's *ex parte* rules. Pursuant to Section 1.1206 of the Commission's Rules, this is to advise you that James H. MacDermott, Manager, Lake Cedar Group, LLC; Sandra H. Solin, Capitol Solutions; Thomas J. Ragonetti, counsel for Lake Cedar Group, LLC; Mark W. Johnson, Esquire, counsel for Group W/CBS Television Stations Partners; and the undersigned met on October 1, 1999 with Commissioner Susan Ness and David R. Goodfriend, Esquire of her office to discuss matters summarized on the attached sheets.

No. of Copies rec'd 041  
List ABCDE

October 4, 1999  
Page 2

Should any questions arise concerning this matter, please advise the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ed W. Hummers, Jr.', with a long horizontal flourish extending to the right.

Edward W. Hummers, Jr.  
Counsel for  
Twenver Broadcast, Inc. and  
Lake Cedar Group LLC

cc: Commissioner Susan Ness  
David R. Goodfriend, Esquire

**LAKE CEDAR GROUP LLC**  
**September 30 – October 1, 1999**

- Lake Cedar Group LLC (“LCG”) is a joint venture of broadcasters in the Denver area, comprising the following stations: Group W/CBS Television Stations Partners, licensee of KCNC-TV; McGraw-Hill Broadcasting Company, Inc., licensee of KMGH-TV; Rocky Mountain Public Broadcasting Network, Inc., licensee of KRMA-TV; Twenver Broadcast, Inc., licensee of KTVD; and Gannett Colorado Broadcasting, Inc., licensee of KUSA-TV (collectively referred to as “Broadcasters.”) Broadcasters formed LCG for the purpose of constructing a multi-user antenna tower on which member stations may colocate digital television (“DTV”) facilities.

- Lookout Mountain in Jefferson County, Colorado is home to an antenna farm that dates to the 1950s, said to have over 450 transmission devices, including seven television, eight FM radio, and two low power television antenna towers.

- Pursuant to the Jefferson County Telecommunications Land Use Plan, which requires tower consolidation, LCG proposed a multi-user tower that would replace four existing television towers in the Lookout Mountain Antenna Farm with one consolidated facility. It is also expected that many of the FM stations with facilities in the Lookout Mountain Antenna Farm will choose to operate from the LCG Tower and that at least three existing FM antenna towers will ultimately be removed.

- Canyon Area Residents for the Environment (“CARE”) seeks the removal of all towers from the Lookout Mountain Antenna Farm, a goal at odds with federal policies in favor of antenna farms. CARE initially sought to prevent construction of the LCG facilities due to concerns of radiofrequency (“RF”) radiation levels and visual impairment to the area. After the FCC determined that the site complied with RF radiation limits, CARE expanded its objection, *inter alia*, to impact on historic sites and the environment that the LCG facility would allegedly cause, and actively sought a decision by Jefferson County denying approval of this facility, in hopes that this would cause the eventual removal of all towers from Lookout Mountain. Despite the FCC’s findings to the contrary, CARE has continued to repeat its arguments regarding RF radiation.

- The Jefferson County Planning Commission, the appointed body that makes recommendations concerning land use matters to the Jefferson County Board of Commissioners, approved the LCG Proposal by a 6-1 vote. At this point, CARE’s opposition efforts intensified. After lengthy hearings, the Board of County Commissioners of Jefferson County (“the County”) rejected the Planning Commission’s recommendation. In so doing, the county made no findings of fact

and made conclusions of law that were supported by little, if any, evidence in the record.

- The LCG Proposal will diminish any impact the antenna farm may have on nearby residents and the historic sites in the vicinity. The construction of a DTV tower on this site will result in the eventual removal of numerous antennas from this location. It will also improve the levels of radiation in the area with more efficient antennas at greater heights above ground. Moreover, LCG has offered, and remains willing, to improve the appearance of its facilities in order to be more compatible with their surroundings.

- An appeal has been filed in the Colorado State Court for the District of Jefferson County. However, this process will take months or years and will delay the implementation of DTV in the Denver market. Moreover, the judges of Jefferson County face a certain degree of political pressure, as the electorate periodically votes as to whether the judges should be retained.

- There are no adequate alternative sites presently zoned by Jefferson County that can accommodate the proposed multi-user tower. Furthermore, those sites suggested by CARE that are outside of Jefferson County do not serve substantial parts of the Denver television market. For example, it has been calculated that transmission from Squaw Mountain would result in a loss of service to 96,711 people in Boulder County alone, or 43% of the county's population. On the other hand, Census Tract No. 98.10, which encompasses Lookout Mountain and the surrounding area, has 8,897 residents (1990 Census data). The Jefferson County decision, left unchecked, would allow a small but vocal group to prevent the provision of DTV services for the entire market.